

**NOTICE OF PROPOSED ACTION
AMENDMENT AND ADOPTION OF REGULATIONS
OF THE
BOARD OF STATE AND COMMUNITY CORRECTIONS**

**REGARDING CONSTRUCTION FINANCING PROGRAMS
CALIFORNIA CODE OF REGULATIONS
TITLE 15, DIVISION 1, CHAPTER 1, SUBCHAPTER 6**

Pursuant to the authority granted by Government Code 15820.906, 15820.916, and 15820.925, the Board of State and Community Corrections (BSCC) hereby gives notice of the proposed regulatory action(s) described in this public notice. It is the intent of the BSCC to amend and adopt the regulations contained in Title 15, Division 1, Chapter 1, Subchapter 6, California Code of Regulations (known as the Local Jail Construction Financing Program), after considering all comments, objections, and recommendations regarding these regulations.

PUBLIC HEARING

BSCC has not scheduled a public hearing on this proposed action. However, the BSCC will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15-days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the BSCC. The written comment period closes at **5:00 pm on April 14, 2014**. The BSCC will consider only comments received at BSCC offices by that time. Submit comments to:

Ginger Wolfe, Associate Governmental Program Analyst
600 Bercut Drive
Sacramento CA 95811
(916) 445-5073
ginger.wolfe@bscc.ca.gov

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the BSCC may adopt the proposed regulations substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the BSCC adopts, amends, or repeals the regulation(s). The BSCC will accept written comments on the modified regulation text during the 15-day period. Comments should be addressed to the above-noted staff member.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The Board of State and Community Corrections (BSCC) proposes to adopt Sections 1712.2, 1714.2, 1730.2, 1740.2, and amend the Subchapter 6 authorizing agency name, Subchapter 6 title, Sections 1700, 1706, 1712, 1712.1, 1714, 1714.1, 1730, 1730.1, 1731, 1747, 1747.1, 1747.5, 1748, 1748.5, 1749, 1749.1, 1750, 1750.1, 1751, 1752, 1753, 1754, 1756, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788, 1790, and 1792 of Title 15 of the California Code of Regulations (CCR). SB 1022 statutory law includes specific mandates requiring that the BSCC, a participating county, and the State Public Works Board acquire, design, and construct adult local criminal justice facilities as approved and overseen by the BSCC pursuant to Section 15820.925.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws

Title 15 regulations discuss and define the requirements, responsibilities, and processes set forth in previous Sections 15820.90-15820.907 and 15820.91-15820.917 for Phase I and II of the Local Jail Construction Financing Program. While current regulations speak to adult jail construction, they do not address criminal justice facilities nor do they speak of design-build type projects.

Section 6030 of the Penal Code requires that the BSCC establish minimum standards for local correctional facilities. These minimum standards include the review and approval of proposed jail and criminal justice facility construction documents and materials for compliance with existing safety and security regulations.

Summary of Existing Regulations

Existing standards that prescribe requirements for the local jail construction financing program are promulgated by the BSCC. These regulations are contained in Title 15, Local Jail Construction Financing Program, Division 1, Chapters 1, Subchapter 6 of the CCR.

Compatibility with Current Regulations

The Board has evaluated the proposed regulation changes and determined that the adoption of these changes to the existing regulation is not inconsistent or incompatible with existing state regulations.

Summary of Effect

The proposed action would update Title 15, Division 1, Chapter 1, Subchapter 6 CCR adopting and amending language to implement statute requiring the BSCC to award up to \$500 million in construction financing to acquire, design, and construct adult local criminal justice facilities. The proposed action adds statutory requirement found in Government Code Sections 15820.92-15820.926 as it pertains to the

financing of adult local criminal justice facilities. Counties across the state are facing overcrowding in existing and outdated custodial facilities. Lack of program space, mental health and treatment space, and reentry facilities give counties little option for non-custodial sentencing. The proposed action will allow for the award of \$500 million in adult criminal justice facilities construction financing to relieve counties of the current and impending flux of inmates.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Policy Statement Overview

The broad objective of the proposed action is to update regulations for the Adult Local Criminal Justice Facilities Construction Financing Program in conformance with statutory changes.

DISCLOSURE REGARDING THE PROPOSED ACTION

The BSCC has made the following initial determinations:

Mandate on local agencies and school districts: As required by Government Code Section 11346.9(a)(2), the BSCC has determined that there will be no mandates imposed on local agencies or school districts through the adoption of these Title 15 regulations as proposed. Local agencies participate in the Adult Local Criminal Justice Facilities Construction Financing Program by request for proposal. Participation in these programs is on a voluntary basis only. No local agency or school district is required to participate.

Cost or savings to any state agency: There were no additional positions or staff time received for this program, costs will be absorbed by current budget. There will be a cost of debt service paid on lease revenue bonds, however, the BSCC does not anticipate any payments during the current or subsequent two fiscal years.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary costs or savings imposed on local agencies: None

Costs or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The BSCC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) Eliminate jobs within California.
- (2) Create new businesses or eliminate existing businesses within California.
- (3) Affect the expansion of businesses currently doing business within California.
- (4) Affect the welfare of California residents, worker safety, and the state's environment.

Significant effect on housing costs: None.

Small Business Determination:

The BSCC has determined that the proposed regulations will have no effect on small businesses. These proposed regulations affect the operations and programs for adult local criminal justice facilities.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a) (13), the BSCC has determined that no reasonable alternative has been identified that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF RULEMAKING DOCUMENTS

The Rulemaking File, which includes all the information on which this proposal is based, is available for viewing at the BSCC's office at the above address and may also be accessed through the BSCC's website at <http://www.bscc.ca.gov/programs-and-services/fso/services>.

AVAILABILITY OF MODIFIED TEXT

If the BSCC makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the BSCC adopts the regulations as revised. The modified text may be accessed through the BSCC website at: <http://www.bscc.ca.gov/programs-and-services/fso/services>. Those persons who do not have access to the Internet may submit a written request to Ginger Wolfe at the above address.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be accessed through the BSCC website at: <http://www.bscc.ca.gov/programs-and-services/fso/services>. Those persons who do not have access to the Internet may submit a written request to Ginger Wolfe at the above address.

AVAILABILITY OF DOCUMENTS; INTERNET ACCESS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in ~~strikeout~~ and underline can be accessed through our website at: <http://www.bscc.ca.gov/programs-and-services/fso/services>. Those persons who do not have access to the Internet may submit a written request to Ginger Wolfe at the above address.

DOCUMENTS INCORPORATED BY REFERENCE

Adult Local Criminal Justice Facilities Construction Financing Program Proposal Form, July 23, 2013

Construction of Adult Local Criminal Justice Facilities Final Rating Form, December 4, 2013

CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS

Inquiries concerning the proposed action may be directed to:

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The backup contact person for these inquiries is:

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